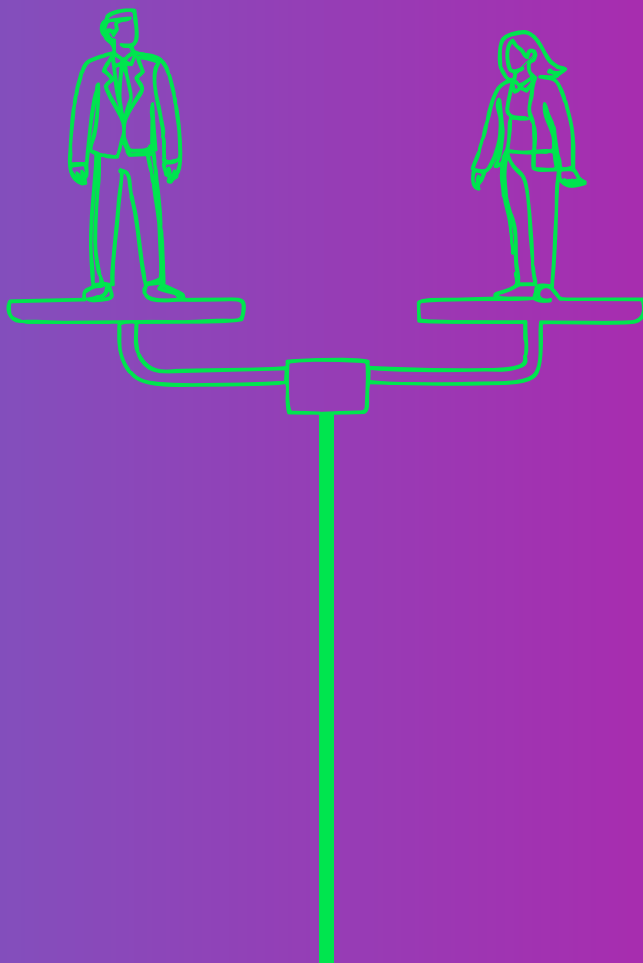


WOMEN'S INHERITANCE RIGHTS



Women and men have equal inheritance rights. However, sometimes, traditions, family and social pressure in Kosovo hamper women's rights to inheritance in practice.

Inheritance and other property rights are crucial for economic security and safety of women. Access to property ensures the possibility for women to live independently and enjoy individual prosperity if they choose to. This is why it is important for women to claim their rights and raise awareness among other women in their communities.

FREQUENTLY ASKED QUESTIONS:

My father passed away, and he left all the property to my brothers. Do I have right to inheritance? What if he did not mention me in his will?

Even if your father did not mention you in his will, you are a compulsory heir. A spouse or a child can only be exempted from inheritance in exceptional cases determined by the law¹. Compulsory heirs are children, adoptees, their descendants, spouses and parents of the deceased person.

My father passed away, but he and my mother were not married. Do I have a right to inheritance?

Yes. If the fatherhood is known or verified by a court or competent body decision, you have the same inheritance rights as children born in marriage. The compulsory share of sons and daughters should be respected even if they are not mentioned in the will.

1. For example, if you have committed a criminal act against your parent or deprived them from basic means of livelihood, and other cases. The validity of the reasons for exclusion have to be verified by a Court.



My husband legally adopted my child, but he also had children from a previous marriage. Do his children have more inheritance rights than my child?

No. All children, adopted and natural, and their descendants, have equal rights to inheritance from their adopting parents. Also, parents cannot exclude from inheritance children from their previous marriages.

If a relative who passed away did not leave a will, who should inherit?

If the person does not make a will while he or she is still alive, inheritance will be distributed according to the inheritance law:

First to inherit: children and spouse* of the deceased in equal shares. If one of the children died before the decedent, the decedent's grandchildren take their place.

Second to inherit: when there are no children, inheritance is transferred to the spouse* and parents of the deceased, or only to the parents if there is no surviving spouse. The spouse shall inherit half of the property and parents the other half in equal shares.

Third to inherit: when there are no parents and siblings of the deceased, inheritance is only transferred to the spouse of the deceased, who inherits the entire property.

If the decedent has no descendants, spouse or parents, their siblings will inherit the property. If they had no siblings, then their grandparents will inherit. If the decedent does not leave an heir, the succession is assumed by the municipality.



***Unmarried partners** have the same inheritance rights as spouses in the cases foreseen by the law; please refer to the question below on unmarried couples.

I inherited a house from a relative. Does my husband have any property rights over it?

No. Property acquired through inheritance is separate property and belongs exclusively to you. Also, property purchased or acquired through other transactions before marriage is your **separate property**.

My husband died. What happens with our common property? Can my children claim it?

You have the right to ask for your entitled share of the **joint property** gained by work by your husband and/or you during your marriage. The portion that belonged to your husband will be transferred to your children. You have the right to reside in this property while alive or until you remarry. If the property is sold, the children should provide the mother with housing.

What if I was pregnant when my husband died? Does my child have the right to inherit his property, even if the baby was not born yet?

In principle, yes. If the baby was conceived before the death of the decedent, and born alive within 300 days after the death of the decedent, he or she has the right to inherit.



My husband filed a petition for divorce right before he died. Do I have the right to inherit his property?

No. A person no longer has the right to inherit from a spouse after divorce or annulment of the marriage. If your husband filed a petition for divorce, and after his death the divorce is enforced with a final decision act, you are no longer eligible to inherit. However, this does not affect your entitlement of joint property gained during the marriage, which still belongs to you.

I was in a relationship with my partner, we lived together and we had children in common, but we never got married. Do I have the right to inherit his property?

Yes, you have the right to inherit if:

- the relationship has lasted for at least five years, or for at least three years if children were born from this relationship, and;
- at the moment of your partner's death, neither of you was legally married to a third person.

Can I transfer my property to my children while alive?

Any person can assign their property to and divide it among their children between living persons. This is a practical option for parents to transfer their immovable property to their children while they are still alive, instead of through inheritance after their death.

Can I transfer my property to third persons, either while alive or in my will?

Yes, you can transfer property to third parties, but you have to respect the inheritance rights of the legally entitled heirs. You have to declare at the time of donation or later, or in a will, that the gift should not

be counted towards the hereditary share. For more detailed information, please seek support from a legal representative or free legal aid. Please see their contact details below.

Who is competent to deal with inheritance procedures?

The notaries and courts can draft a will based on a testator's request. In this case, they are obliged to read the written will to the testator and then inform her/him about the legal consequences of the will.

Notaries and courts should ensure institutional protection of the women's inheritance rights. Notaries/courts are responsible for holding information sessions to inform potential heirs about their rights and obligation. If an heir expresses their intention to renounce their rights to inheritance, the notary or court official must have a separate discussion with the heir, without the presence of other heirs, and make sure they fully understand the consequences of their decision. Moreover, the notary or court officials must record the evidence and declaration of renunciation through minutes and audio and video recording. If the notary/judge suspects that a woman heir is under pressure to waive her inheritance, they should reject the renunciation and refer the case to the Prosecutor.

If in a public office an official says that it is custom for women to renounce their inheritance, thus pressuring me or a family member, what should I do?

You do not have to renounce your right to inherit. Every member of the family has the right to inheritance. One can renounce his/her property rights only at free will, and if he or she fully understands the consequences of their decision.



Keep in mind that if you renounce your rights to your inheritance, you will lose the right to receive any of the assets and wealth of the family member who passed away. Your children will also lose their right to inherit this property, unless you explicitly state that you only renounce on your behalf.

What should I do if the public official still insists?

Do not sign anything and leave the office. The role of the public official is to provide you with clear and objective information about your rights and legal consequences of your decision. If the public official insists, seek support in your network, community or women associations, free legal aid and report the case to the relevant authorities (Ministry of Justice, Prosecutor's Office, or the Ombudsperson).

What should I do if my relatives want me to renounce my inheritance?

- Be vocal and claim your share of inheritance; do not renounce your rights, especially if under pressure from relatives.
- In case of violation of your rights, direct your concerns to women's networks and associations, and to responsible institutions (e.g. Kosovo Police, the Ombudsperson).
- Insist on registering property created during the marriage in the name of both spouses in the Cadaster.



Additional information

What can family members do to increase awareness of inheritance rights?

- Raise boys and girls as equals.
 - Teach the girls that they have equal rights to inherit properties that belong to their parents.
 - Teach the boys that their sister(s) have the right to inherit all properties from their parents.
- Speak with your relatives and neighbours; inform them that women in Kosovo have equal rights to inherit their parents' property.
- Inform your family members that they should register property created during the marriage in the name of both spouses in the Cadastre.

What can civil society organisations do?

Raise awareness in your communities, and support and empower women to feel comfortable claiming their share of inheritance. CSOs can also refer women to relevant support services at local level when needed.

Who can support me if I need legal advice but I do not have enough resources?

The Agency for Free Legal Aid provides free legal assistance and services to those who do not have sufficient financial means. It has seven regional offices and several mobile offices throughout Kosovo. Contact your local office and present them your case.

List of contacts

Ministry of Justice

Call this number, free of charge: 080010010

Phone: +383/38/200-18-009

Email: zkp.md@rks-gov.net

Agency for Free Legal Aid

Call this number free of charge: 08001177

Phone: 038 200 18 936

E-mail: Info.ANJF@rks-gov.net

Ombudsperson Institution

Call this number free of charge: 0800 15555

Phone: +383 (0) 44 827 844

Email: info.oik@oik-rks.org

Kosovo Notary Chamber

Phone: +383 38 726 018 & +383 45 299 989

E-mail: info@noteria-ks.org

Prosecutor's Office

Phone: +383 (0) 38 200 18 710

E-mail: info.psh@rks-psh.org

Women's Network

Phone: 038/245-850

Email: info@womensnetwork.org

Laws on Inheritance

- Law on Inheritance: Law No.2004/26 on Inheritance in Kosovo, amended by Law No. 06/L-088: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2407>.
- Law on Out Contentious Procedure: Law No. 03/L-007 on Out Contentious Procedure (), with amendments and supplements of the Law No. 06/L -007, Article 165A: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2608>.

